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SPECIFIC GROUPS AND INDIVIDUALS:
MIGRANT WORKERS

Written statement*/ submitted by Human Rights Advocates, Inc.,
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[4 February 2000]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

Violations of Migrant Workers' Rights

1. As migrant workers cross borders in search of a better life for themselves and their families, their lives are increasingly put into jeopardy by forces such as violently overzealous border control policies, exploitative smuggling and trafficking operations, dangerous detention conditions, and substandard working conditions. Human Rights Advocates (HRA), has submitted numerous reports describing violations of migrant workers' rights for many years, but violence against migrant workers continues unabated. The purpose of this statement is to highlight recent violations of migrant workers' rights. This statement will focus on violations of the right to life of migrant workers and the right of migrant workers to be free from cruel, inhuman, or degrading treatment and working conditions.

UNITED STATES

Border Deaths

2. United States border control policies along the 2,000 mile long United States-Mexico border have resulted in the deaths of hundreds of migrant workers who have attempted to cross the border at geographically remote and dangerous places. Since its inception in October 1994, the US government's border control strategy "Operation Gatekeeper" has contributed to the deaths of approximately 458 undocumented immigrants (as of 12/14/99) by forcing them into inhospitable and rugged places.¹

3. This policy has drastically increased the number of migrant deaths, while doing little to change the economic realities that drive migrants to cross the border. While the Immigration and Naturalization Service budget has tripled to nearly \$3.95 billion since 1994, an unwavering apprehension rate of between 1.4 and 1.5 million indicates that the flow of illegal immigrants across the border has not decreased. The immigrant death toll on the other hand has increased approximately 630%.²

4. In addition to death by environmental conditions, migrants also die as a result of violence perpetrated by the Border Patrol. In March 1999, a border patrol agent transporting seven migrants crashed his vehicle, causing his own death as well as the deaths of three undocumented migrants. The vehicle was overloaded and none of the passengers were wearing seatbelts.³ In July 1999, over a four-day period, three immigrants were shot and killed by Border Patrol agents in separate incidents. Each victim had at least two or three bullets in his body.⁴

¹ Claudia Smith, California Rural Legal Assistance Foundation, December 14, 1999, letter to the Special Rapporteur on Migrants.

² Michael Huspek, "Fatal Growing Pains for the Border Patrol", San Diego Union Tribune, July 22, 1999.

³ S. Lynne Walker, "Fog Led to Fatal Border Crash, CHP Report Says," The San Diego Union Tribune, September 9, 1999.

⁴ Michael Huspek, "Fatal Growing Pains for the Border Patrol", San Diego Union Tribune, July 22, 1999.

Detention of Undocumented Migrant Workers

5. Undocumented migrant detainees in prisons have faced serious human rights violations that constitute cruel, inhuman, and degrading treatment. Faced with an overwhelming demand for detention space, the United States Immigration and Naturalization Service housed more than 60% of the 15,000 detainees in its custody in 1998 in local jails throughout the country. The agency has handed over control of its detainees to local jail officials without enforcing basic national and international standards requiring humane treatment. Detainees have been subjected to physical mistreatment, grossly inadequate conditions, and are often mixed with convicted criminals.⁵

6. In July 1999, the Immigration and Naturalization Service removed 34 detainees from Jackson County Jail in Florida following allegations that they had been tortured with electroshock shields while held in four-point restraints. There were also allegations that detainees were subject to beatings and excessive periods of solitary confinement.⁶ Sexual abuse of women in custody is a continuing problem for women in jails and immigration detention centers.⁷

Substandard Health Care and Work Conditions for Migrant Workers

7. California farm laborers, who are primarily migrant workers, fill a critical need in California's \$27 billion agricultural industry. Despite the estimated 1.4 million farm workers and their families in California, little attention has been given to their health care, working conditions, and standard of living.⁸

8. A survey conducted by the United States Department of Labor in 1997 found that 61% of the state's farm worker families live below the federally defined poverty line.⁹ A recent study on the health of migrant farm workers in Michigan indicated that these workers are at a high risk for developing nutrition-related health problems due to the interaction between poverty and a migratory lifestyle. The study also found a serious lack of health services for migrant workers, as migrant clinics serve less than 20% of United States migrant workers.¹⁰

9. Substandard working conditions continue to put migrant workers' lives in jeopardy. In August 1999 a van carrying migrant workers in California crashed, killing thirteen people. Most of the van's fifteen occupants were seated on benches without seat belts, which are not required for certified farm vehicles often used to transport migrant workers, but are required for most citizens.¹¹

⁵ Human Rights Watch, United States: Locked Away: Immigration Detainees in Jails in the United States, Vol. 10, no.1(G), New York, NY (1998).

⁶ Id.

⁷ Human Rights Watch, Human Rights Watch World Report 1999: Women's Human Rights: Violence Against Women (1999) <http://www.hrw.org/worldreport99/women/women2.html>.

⁸ Ernesto Portillo Jr., "Farm Workers' Health Under a Microscope", The San Diego Union Tribune, September 26, 1999.

⁹ Id.

¹⁰ Kowalski, Kimberly, "Nutritional Patterns and Needs of Migrant Farm Workers in Northwest Michigan" Journal of the American Dietetic Association, Feb 1, 1999.

¹¹ George Ramos; James Rainey, "Van Crash Leaves Families Grieving and Wondering" Los Angeles Times, August 11, 1999.

10. The United States government is currently proposing a "guest worker" program despite a failed past attempt which resulted in severely substandard working and living conditions. A controversial measure proposed for the new program would require that workers remain in agriculture for five years before they could obtain permanent legal status, thus severely limiting their rights while in the US.¹²

MALAYSIA

11. In Malaysia, thousands of undocumented migrant workers were forcibly deported in 1998.¹³ In March 1998 more than 11,000 Indonesians were deported from immigration detention camps around the country, causing both injury and death. Many of those deported included asylum seekers and people known to be at risk of human rights violations in Indonesia. Between January 1 and April 30, 1998, the Home Ministry of Malaysia reported 30,000 deportations.¹⁴

THAILAND

12. Throughout the past year immigration officials and police in Thailand arrested and sent to the border tens of thousands of Burmese migrant workers, some of whom were asylum seekers. Over 500,000 displaced persons or "illegal migrants" from Burma remained in Thailand but were vulnerable to arrest and deportation even though many had a valid fear of persecution.¹⁵ Serious overcrowding in immigration detention centers is a major issue. Inadequate medical care, sanitation, food and water were lacking in many places of detention.¹⁶ Women detainees also faced the possibility of sexual abuse. For example, trafficked Burmese women arrested in brothels and detained in Thai prisons faced potential rape by police and the possibility of sale back to the same or another brothel.¹⁷

GERMANY

13. In the past year there have been allegations of police ill-treatment of foreign nationals living in Germany.¹⁸ Foreign nationals reported being stopped at gunpoint, asked for identity papers, and subsequently beaten and verbally abused. A number of asylum-seekers made allegations about police abuse during deportation proceedings. On May 28, 1999, a Sudanese asylum seeker died during an attempt

¹² "Senators Seek Amnesty for Illegal Immigrants", *San Francisco Chronicle*, October 27, 1999.

¹³ The Economist, "Asia Goes on the Dole" Vol. 37; Issue 8065, April 25, 1998.

¹⁴ Human Rights Watch, *Human Rights Watch World Report 1999: Malaysia*, (1999) <http://www.hrw.org/worldreport99/asia/malaysia.html>.

¹⁵ Human Rights Watch, *Human Rights Watch World Report 1999: Thailand*, (1999) <http://www.hrw.org/worldreport99/asia/thailand.html>.

¹⁶ Amnesty International, *Amnesty International Annual Report 1999: Thailand*, (1999) <http://www.amnesty.org/ailib/aireport/ar99/asa39.htm>.

¹⁷ Human Rights Watch, *Human Rights Watch World Report 1999: Women's Human Rights: Discrimination* (1999) <http://www.hrw.org/worldreport99/women/women3.html>.

¹⁸ Amnesty International, *Amnesty International Annual Report 1999: Germany*, (1999) <http://www.amnesty.org/ailib/aireport/ar99/eur23.htm>.

to forcibly deport him from Frankfurt am Main airport. He apparently stopped breathing after being forcibly restrained during take-off.¹⁹

GREECE

14. The treatment of migrant workers in Greece deteriorated significantly in 1999 as the government responded to rises in unemployment and crime by targeting migrants.²⁰ Death also occurred along the border with Turkey. In January 2000, a truck carrying about 80 illegal migrants from Turkey crashed killing 6 people and injuring dozens of others. Police said the truck had been speeding to avoid highway inspections. The crash brought to at least 29 the death toll of migrants killed in similar accidents over the past three months.²¹

SPECIFIC ISSUES OF MIGRANT WOMEN

15. Women migrant workers are especially vulnerable to cruel, inhuman, and degrading treatment, and life risking situations. This may take the form of debt bondage, illegal confinement, enforced isolation, wage withholding, deprivation of identity documents, rape, and other physical abuse. Trafficked women's status as illegal migrant workers leaves them at risk for exploitation by traffickers and employers, as they may be reluctant to approach officials for fear of deportation or incarceration. It is estimated that one to two million women and girls are trafficked annually around the world for purposes of forced labor, forced prostitution, servile domestic labor, or involuntary marriage.²²

RECOMMENDATIONS

16. Human Rights Advocates recommends that the Commission:
17. Ask the Special Rapporteur to visit troubled border regions such as the United States-Mexico border to interview migrants and to develop solutions for preventing deaths along the border.

¹⁹ Amnesty International, Amnesty News Service, Public Statement: Federal Republic of Germany: Death of Sudanese Asylum-Seeker, 107/99, AI INDEX: EUR 23/01/99, (3 June 1999).

²⁰ Human Rights Watch, Human Rights Watch World Report 1999: Greece, (1999) <http://www.hrw.org/worldreport99/women>.

²¹ San Francisco Chronicle, Greece to Boost Security After 6 Immigrant Deaths, Saturday, Jan. 8, 2000.

²² Human Rights Watch, Human Rights Watch World Report 1999: Women's Human Rights - Discrimination (1999) <http://www.hrw.org/worldreport99/women/women3.html>.

18. Ask governments to take the following steps to avoid violations of migrant workers' rights.
- a) Government immigration agencies should not house immigration detainees in facilities intended to hold criminal populations. Governments should consider non-custodial alternatives to detention, especially in the case of minors and those with health concerns. State agencies should maintain current, publicly available statistics on the number of people in detention, the length of detention, and the locations of detention centers.
 - b) Governments should ensure that the same safety regulations and standards that apply to citizens apply to migrants. Governments or non-governmental organizations should conduct studies on the health and standard of living of migrant workers and publish the results.
 - c) Governments should prosecute those who exploit female migrant workers by assisting the women to bring cases against these individuals. States Parties to the *Convention on the Discrimination of All Forms of Discrimination Against Women* should also realize that under Article 6 they are obligated to take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of women.²³
 - d) Should guest worker programs be implemented, governments must ensure that they include fundamental human rights safeguards to protect the lives and well being of migrant workers.
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²³ G.A. res. 34/180, U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/180 entered into force Sept. 3, 1981. (Article 6)